

****NOT FOR PRINTED PUBLICATION****

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

KEITH HAMAKER

V.

CHASE MANHATTAN MORTGAGE
CORPORATION

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CASE NO. 4:12-CV-773
Judge Clark/Judge Bush

**ORDER ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On March 27, 2013, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that plaintiff's Motion for Temporary Restraining Order [Doc. #27] be denied [Doc. #30]. On April 15, 2013, plaintiff filed objections to the report [Doc. #36].

After issuing this report, the Magistrate Judge assigned to this case entered an order of recusal. The case has been reassigned to another Magistrate Judge. The court has reviewed the report, the objections, as well as the pleadings relevant to this motion, and finds no basis for issuance of an injunction at this time.

Plaintiff seeks an injunction to prevent defendant from purchasing "forced-placed insurance" for his property. The Magistrate Judge determined that plaintiff failed to show an irreparable injury or that there was a substantial likelihood of success on the merits. The court agrees that plaintiff has failed to establish that he is entitled to injunctive relief on the issue of insurance. Although not cited by the Magistrate Judge, defendant correctly notes, in its response to the motion, that "lender placed

insurance is not the subject of this suit, and is not even mentioned in Plaintiff's First Amended Complaint." Plaintiff asserts that the issue of insurance has been placed in this lawsuit as part of his breach of contract claim. This argument is misplaced. A review of plaintiff's current complaint fails to mention any issue regarding insurance. Plaintiff may not obtain injunctive relief for matters not part of his case. Although an amendment would allow this claim to be added, it would not entitle plaintiff to injunctive relief at this time. Moreover, the court agrees that there is an adequate remedy at law of monetary damages if defendant improperly purchased lender-placed insurance.

Having received the report of the United States Magistrate Judge, and considering the objections thereto filed by plaintiff, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is, therefore, **ORDERED** that plaintiff's Motion for Temporary Restraining Order [Doc. #27] is DENIED.

So **ORDERED** and **SIGNED** this **29** day of **August, 2013**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge